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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,968	10/05/2005	Ronaldus Maria Aarts	NL 030369	3580
24737	7590	04/07/2008	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			MONIKANG, GEORGE C	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			2615	
			MAIL DATE	DELIVERY MODE
			04/07/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/551,968	AARTS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	GEORGE C. MONIKANG	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 October 2005.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. 10/551968.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 6 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The computer program of claim 6 should be changed to a "computer program executable by a computer readable medium".

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6-8 & 10-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claims 6-7 & 10 recite the limitation "the invention". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Objections***

5. Claim 5 is objected to because of the following informalities: Claim 5 fails to indicate what claim it is dependent to. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curry et al, US Patent Pub. 2003/0081115 A1.

Re Claim 1, Curry et al discloses a sound recording and reproduction system comprising: ear microphones for recording sound (*abstract*); sound reproduction means for generating sound (*abstract*); and means to control the sound signal generated by said sound reproduction means (*abstract*), characterized in that the system comprises: an input for reproduction of a recorded sound signal on the means for generating sound through an adaptive filter (*para 0024*), the system comprising a feed back system comprising the input (*para 0024*), the adaptive filter (*para 0024*), at least one ear microphone (*abstract*), at least one sound reproduction means (*abstract*) and a comparison means for comparing an input signal to a signal received by the microphone during reproduction of said input signal (*abstract*), said comparison means providing a comparison signal for regulating the adaptive filter (*para 0024*).

Curry et al fails to disclose a storing device for storing sound signals. Official notice is taken that both the concepts and advantages of providing a storing device for storing sound signals are well known. Thus it would have been obvious to use a storing device since they are commonly used to store information for later access.

Re Claim 2, Curry et al discloses a sound recording and reproduction system as claimed in claim 1, characterized in that the sound reproduction means are headphones (fig. 1: 113 & 115).

Re Claim 3, Curry et al discloses a sound recording and reproduction system as claimed in claim 1, characterized in that the system comprises a delay element for delaying the recorded signal prior to the comparison means (para 0024).

Re Claim 4, Curry et al discloses a sound recording and reproduction system as claimed in claim 1, characterized in that the system comprises a means to alter a recorded signal prior to the input of the feed back system (para 0024).

Re Claim 5, Curry et al discloses a sound recording and reproduction system as claimed in claim, characterized in that the system comprises head tracking means (para 0026).

Claims 6-12 have been analyzed and rejected according to claim 1.

### Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE C. MONIKANG whose telephone number is (571)270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C Monikang/  
Examiner, Art Unit 2615

3/24/2008

/Vivian Chin/  
Supervisory Patent Examiner, Art Unit 2615